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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,235	07/18/2003	Steven J. Schmitz SR.	LKMP:111US	4640

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EXAMINER

OLSON, LARS A

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,235

Applicant(s)

SCHMITZ ET AL.

Examiner

Lars A Olson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11-15 and 18 is/are rejected.
- 7) ☒ Claim(s) 9, 10, 16, 17 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. An amendment was received from the applicant on May 14, 2004.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8, 11-15 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Forthmann (US 6,098,561).

Forthmann discloses the same method for producing a moment on a vessel as claimed, as shown in Figure 1, that is comprised of the steps of operatively mounting a rudder member below a waterline of said vessel, and rotating said rudder member, defined as Part #13, around a first axis, defined as Part #15, and a second axis, defined as Part #12, in order to produce a moment on a vessel, defined as Part B, as described in lines 6-22 of column 4. Said first axis is substantially parallel to a keel, defined as Part K in Figure 1, and said second axis is substantially perpendicular to said first axis, as shown in Figure 1.

Forthmann discloses the same apparatus as claimed, as shown in Figure 1, that is comprised of said rudder member, defined as Part #13, that is mountable so as to be

operable below a waterline of a vessel, and operatively arranged to be rotated about a first axis, defined as Part #15, and a second axis, defined as Part #12. A linear actuator is operatively arranged to rotate said rudder member around one of said first axis and said second axis, as shown in Figure 1, and a rotary actuator is operatively arranged to rotate said rudder member around one of said first axis and said second axis, as shown in Figure 1.

Forthmann discloses the same vessel as claimed, as shown in Figure 1, that is comprised of a hull, defined as Part B, having a keel, defined as Part K, and said rudder member, defined as Part #13, that is rotatably fixed to said hull below a waterline of said vessel, as shown in Figure 1, by an appendage, defined as Part #11, and is operatively arranged to be rotated around a first axis, defined as Part #15, and a second axis, defined as Part #12.

Allowable Subject Matter

4. Claims 9, 10, 16, 17 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed on May 14, 2004 regarding claims 1-8, 11-15 and 18 have been fully considered but they are not persuasive.

6. The applicant argues that Forthmann (US 6,098,561) does not disclose a rudder member that is operatively mounted below a waterline of a vessel.

7. In response to the applicant's argument, Forthmann clearly discloses a rudder blade, defined as Part #13, that is operatively mounted below a waterline of a vessel, as shown in Figure 1, where said rudder blade is rotatable around a first axis and a second axis to produce a moment on said vessel. Furthermore, it is inherent for all rudder members to be operatively mounted below a waterline of a vessel in order to be capable of functioning as a rudder for said vessel. Therefore, for the reasons given above, the rejection of claims 1-8, 11-15 and 18 is deemed proper and is not withdrawn.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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9. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (703) 308-9807.

lo

June 18, 2004



S. JOSEPH MORANO
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